

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 735 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

PARMANANDBHAI SAKELCHAND SHAH

Versus

G S R T C

Appearance:

MR PB MAJMUDAR for Petitioner

MR MD PANDYA for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE S.D.DAVE

Date of decision: 05/08/96

ORAL JUDGEMENT

Being dissatisfied with the judgment and award passed by the Motor Accident Claims Tribunal (Auxiliary) at Baroda on 16th April 1982 in M.A.C.P. No. 220 of 1981, the original claimant has preferred this appeal.

2. The Tribunal, considering the facts and circumstances of the case, held that the appellant is

entitled to get total compensation of Rs.2,45,925/- as a global figure. Learned advocate for the appellant contended that the award under the head of pain and suffering and for catheter and bags is on the lower side and more amount should have been awarded.

3. The occurrence of the accident at 3.30 p.m on 31.10.1980 at Subhanpura turning on the road from S.T. Office to Amrakunj Society at Baroda is not disputed. We are, therefore, not discussing that aspect in this judgment.

4. On appreciation of evidence, the Tribunal held that the appellant is entitled to Rs.1,56,930/- by applying a multiplier of 10, considering the fact that the applicant was aged 42 years on the date of the accident and was drawing Rs.15,693/- per year.

5. The appellant claimed Rs.70,000/- for expenses towards catheter and bag and the Tribunal has awarded a sum of Rs.6,000/-. Mr. Majmudar, learned advocate for the appellant contended that the amount is not just and proper.

Learned advocate for the appellant also contended that the award of Rs.35,000/- under the head of general damages, i.e. for shortening of leg, pain on account of injury sustained on the right hip joint and inability to enjoy sexual life, is not just and proper and more amount is required to be awarded under this head.

6. Considering the fact that the appellant at the relevant time was aged 42 years and the fact that he got married in 1964 and his wife delivered one child in 1966 and another in 1968, Mr. Pandya, learned advocate for the respondent submitted that the award under the head of general damages, pain and suffering is just and proper.

7. Considering the medical evidence on record, it is clear that the appellant though has not become impotent, is not in a position to enjoy sexual life on account of injuries sustained by him, and more particularly on Urethra. No amount of money can afford any real compensation for such type of miserable state of health in which the claimant had been left on account of this unfortunate incident. Mr. Majmudar, relying on the decision of this Court reported in the case of A.S. RAJARA VS. JOITARAM RAWABHAI reported 1982 (2) GLR 29, submitted that in that case Rs.75,000/- was awarded by way of global assessment as damages under the head of pain, shock and suffering and loss of amenities and

enjoyment of life, and in the instant case, atleast Rs.50,000/- is required to be awarded.

8. Considering the fact that the appellant at the time of the accident was 42 years old, and looking to the facts and circumstances of the case, it would be just and proper to award Rs.15,000/- more (Rupees fifteen thousand only) by way of global assessment under the head of pain and suffering and loss of amenities and enjoyment of life.

We also think it proper to award a sum of Rs.3000/- more towards the expenses for catheter and bags.

Accordingly, we award Rs.18,000/- more with 12% interest from the date of application till realisation. The same shall be paid within a period of eight weeks from the date of receipt of the writ. The award stands modified to the aforesaid extent. Thus, over and above the amount awarded by the Tribunal, the aforesaid amount is directed to be paid by the respondent.

Appeal allowed accordingly. No order as to costs.

csm./